

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/694,614	BRUBAKER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Padmavathi v Baskar	1645	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1/14/05.
2. ☒ The allowed claim(s) is/are 2,3 and 8 have been renumbered as 1-3 respectively.
3. ☒ The drawings filed on 13 February 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                 |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>1/14/05</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                                   |
|   | 9. <input type="checkbox"/> Other _____.  |

**DETAILED ACTION**

***Amendment***

1. Applicant's amendments filed on 8/20/04, 10/18/04 and 1/14/05 are acknowledged.

***Status of Claims***

2. Claims 2, 3 and 8 have been amended; Claims 1, 4-7 and 9 have been canceled via amendment filed on 8/20/04.

Claims 10-38 have been added via amendment filed on 10/18/04.

Claims 2, 3 and 8 have been amended via amendment filed on 1/14/05.

Claims 10-38 have been canceled via amendment filed on 1/14/05.

Claims 2, 3 and 8 are pending in the application.

***Priority***

3. In view of amendment (filed on 8/20/04) to the specification, the priority is accorded to this application as of 9/8/1994.

***Claim Informalities and Claim Objections withdrawn***

4. In view of amendment filed on 1/14/05, claim objections and claim Informalities have been withdrawn.

***Rejection(s) under 35 U.S.C. § 101 withdrawn***

5. In view of amendments filed on 10/18/04 and 1/14/05, the rejection of claims 2 and 3 under 35 U.S.C. 101 is withdrawn.

***Rejection(s) under 35 U.S.C. § 112, Second Paragraph withdrawn***

6. In view of amendment to the claims filed on 1/14/05, the rejection of claims 2, 3 and 8 under 35 U.S.C. § 112, second paragraph is withdrawn.

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***Claim rejection 35 USC 112, first paragraph scope of enablement withdrawn***

7. In view of amendment to the claims and cancellation of claim, the rejection under 35 USC 112, first paragraph scope of enablement is withdrawn.

**Claim Rejections - 35 USC 102 withdrawn**

8. In view of amendment to the claims 2, 3 and 8, the rejection of claims 2,3 and 8 under 35 U.S.C. 102(a) as being anticipated by Motin et al 1994 is withdrawn.

9. In view of amendment to the claims, the rejection of claims 2 and 3 under 35 U.S.C § 102(b) as being anticipated by Perry 1986 et al is withdrawn.

10. In view of amendment to the claims, the rejection of claims 2 and 3 under 35 U.S.C. 102(b) as being anticipated by Bergman et al et al 1991 is withdrawn.

11. In view of amendment to the claim, the rejection of claim 3 under 35 U.S.C. 102(b) as being anticipated by Watson et al 1988 is withdrawn.

12. In view of amendment to the claims, the rejection of claims 2 and 3 under 35 U.S.C. 102(b) as being anticipated by Straley et al 1986 is withdrawn.

13. The claims are drawn to an isolated and purified recombinant V antigen encoded by the construct pPAV13. The claimed recombinant V antigen is neither anticipated nor suggested by the prior art of record as the claimed recombinant V antigen lacks the first 67-N-terminal amino acids of native V antigen and comprises low calcium response regions and staphylococcal protein A that is encoded by the construct pPAV13.

***Remarks***

13. Claims 2, 3 and 8 are allowed and have been renumbered as 1-3 respectively.

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**Conclusions**

14. Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center, which receives transmissions 24 hours a day and 7 days a week. The transmission of such papers by facsimile must conform to the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The RightFax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PMR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PMR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Padma Baskar Ph.D., whose telephone number is ((571) 272-0853. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 6.30 a.m. to 4.00 p.m. except First Friday of each bi-week. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on (571) 272-0864. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600

Respectfully,



Padma Baskar Ph.D.



LYNETTE R. F. SMITH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER